illness. *Held*, the plaintiff cannot recover. *American, etc., Ins. Co.* v. *Nirdlinger* (Miss.), 73 South. 875.

The majority of courts place a liberal construction on such clauses as, "necessarily and continuously confined within the house." Thus, where the disease is such as to require fresh air, the courts are practically unanimous in allowing a recovery, though the insured daily spends part of his time out of doors. *Great Eastern Casualty Co.* v. *Robins*, 111 Ark. 607, 164 S. W. 750; *Dulaney* v. *Fidelity and Casualty Co.*, 106 Md. 17, 66 Atl. 614. This is especially true when the insured acts upon a physician's orders. *Metropolitan, etc., Co.* v. *Hawes*, 150 Ky. 52, 149 S. W. 1110, 42 L. R. A. (N. S.) 700. The holding is justified on the ground that the things done have a tendency to hasten recovery and thereby benefit the insurer. *Columbian Relief Fund Ass'n* v. *Gross*, 25 Ind. App. 215, 57 N. E. 145. Recovery has also been allowed where the insured made regular trips to a sanitarium or to his physician's office for treatment. *Ramsey* v. *General, etc., Ins. Co.*, 160 Mo. App. 236, 142 S. W. 763; *Breil* v. *Claus, etc., Vereen*, 84 Neb. 155, 18 Ann. Cas. 1110, 23 L. R. A. (N. S.) 359.

But there must be a substantial confinement within the spirit of the term. Thus, there can be no recovery where the insured suffered from a felon and stated in his preliminary report to the insurer that he was not necessarily confined to his house. *Cooper* v. *Phœnix, etc., Ass'n*, 141 Mich. 478, 104 N. W. 734. Nor where the insured takes trips to various cities, occasionally resting in the bed during the daytime. *Bradshaw* v. *American Benevolent Ass'n*, 112 Mo. App. 435, 87 S. W. 46; *Rocci* v. *Massachusetts Accident Co.* (Mass.), 110 N. E. 972. And so, in a case similar to the principal case, the insured, who went to his store daily and sat there superintending his business, was not allowed to recover. *Shirts* v. *Phœnix, etc., Ass'n*, 135 Mich. 444, 97 N. W. 966.

Since the purpose of such a policy is to indemnify the insured against loss of time in his occupation, it has been held by a few courts that the test of "continuous confinement" is whether the insured is able to perform the duties of his employment. *National, etc., Ins. Co.* v. *King*, 102 Miss. 470, 59 South. 407; *Scales* v. *Masonic Protective Ass'n*, 70 N. H. 490, 48 Atl. 1084. But the language used does not seem to justify this interpretation.

INTERSTATE COMMERCE—WHITE SLAVE TRAFFIC ACT—SCOPE.—The defendant participated in the transportation of a woman from California into Nevada, in order that she might become his mistress. She accompanied the defendant voluntarily, and it was admitted that there was no intent to prostitute her for pecuniary profit. The defendant was indicted under the White Slave Traffic Act of June 25, 1910. *Held*, the defendant is guilty. *Caminetti* v. *United States*, 37 Sup. Ct. Rep. 192. See NOTES, p. 653.

NEGLIGENCE—FAILURE TO COMPLY WITH STATUTE—REQUIREMENTS AS TO FIRE ESCAPES.—A state statute required all hotels to be equipped with fire escapes in a specified manner. The plaintiff's intestate, who was a guest at a hotel owned by the defendant but operated by a lessee in

complete possession, lost his life when the hotel was destroyed by fire. The building was not equipped with fire escapes as required by the statute, and this neglect was the proximate cause of the decedent's death. *Held,* the defendant is liable in damages. *Hoopes* v. *Creighton* (Neb.), 160 N. W. 742.

The main question in the principal case turns upon the plaintiff's right of action under a statute. The general rule is that where a statute creates a duty not existing at common law and provides a remedy for its violation that remedy only can be pursued. *Almy* v. *Harris,* 5 Johns (N. Y.) 175. But where a statute is enacted for the benefit of particular persons, and one of them is injured because of a violation of the statute, the rule laid down by the majority of the courts is that he shall have a remedy in damages, although the statute fails to provide for a private action and a penalty is expressly imposed upon the violater. *Willy* v. *Mulledy,* 78 N. Y. 310, 34 Am. St. Rep. 536; *Queen* v. *Dayton, etc., Co.,* 95 Tenn. 458, 32 S. W. 460, 30 L. R. A. 82; *Pauley* v. *Steam Gauge, etc, Co.,* 131 N. Y. 310, 29 N. E. 999, 15 L. R. A. 194. Even where the penalty is not payable to the party injured, nevertheless a civil action for damages may be maintained. *Rose* v. *King,* 49 Ohio St. 213, 30 N. E. 267, 15 L. R. A. 160; *Couch* v. *Steel,* 3 Ell. & Black. 414. Following this view, the great weight of authority is in favor of giving guests at hotels the right to maintain actions for injuries caused by the failure of innkeepers to erect fire escapes as required by these statutes, which were enacted for their benefit. *Yall* v. *Snow,* 201 Mo. 511, 100 S. W. 1. But there are a few cases which hold that the intention of the legislature in passing these statutes was to secure safe structures, as a police measure for the general safety; and, as the statutes generally impose penalties and provide for injunctions, no action can be maintained by a private individual to recover damages for injuries due to neglect to comply with them. *Grant* v. *Slater, etc., Co.,* 14 R. I. 380. See *Maker* v. *Slater, etc., Co.,* 15 R. I. 112, 23 Atl. 63.

Some courts attempt to make a distinction between the duty imposed by a statute and that imposed by a municipal ordinance. They hold that the power given a municipality to enact laws necessary to the general welfare does not give it the right to provide a private remedy for the violation of such ordinances; since the power to enact ordinances is delegated, and must be strictly construed against the municipality. *Philadelphia & R. R. Co.* v. *Ervin,* 89 Pa. St. 71, 33 Am. Rep. 726; *Flynn* v. *Canton Co.,* 40 Md. 312, 17 Am. Rep. 603; *Heeny* v. *Sprague,* 11 R. I. 456. But it would seem that an ordinance which a municipal corporation passes for the protection of its inhabitants is binding on all persons within the corporate limits; and, while its violation should not be considered negligence *per se,* yet it is *prima facie* evidence of negligence, and hence a person injured by its violation should be allowed to recover, in the absence of countervailing evidence. *Grand Trunk Ry. Co.* v. *Ives,* 144 U. S. 408. See 1 VA. LAW REV. 558.